

POSTED
09-12-05

175645



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

ROBINSON, MCFADDEN & MOORE, P.C.

COLUMBIA | GREENVILLE

September 9, 2005

VIA E-MAIL & HAND DELIVERED

Joseph M. Melchers, Chief Counsel
Public Service Commission of South Carolina
Synergy Business Park
101 Executive Center Drive, Saluda Building
Post Office Drawer 11649
Columbia, SC 29211

Frank R. Ellerbe, III
1901 MAIN STREET, SUITE 1200
POST OFFICE BOX 944
COLUMBIA, SOUTH CAROLINA 29202

SC PUBLIC SERVICE
COMMISSION

2005 SEP -9 PM 3:53

PH
(803) 779-8900
FAX
(803) 252-0724

RECEIVED

**Re: Time Warner Cable Information Services (SC), LLC
Expansion of Certification for Rural ILEC Service Areas
Docket No. 2004-280-C**

Dear Joseph:

I am writing to respond to your letter of August 31, 2005 requesting information about a potential staff recusal issue involving Commission employee Doug Pratt. You asked about the relationship between several Time Warner entities including the entity which employs Doug's wife Sharon Pratt. It is our belief that, for purposes of assessing the application of the Canons of Judicial Conduct, the relationship between the Time Warner entities is close enough that they should be considered the same entity.

It appears that the relevant provision of the Canons with respect to recusal is Canon 3(E)(1)(c). That provision requires recusal where a spouse has a more than "de minimis" economic interest in the proceeding. It is unclear to us whether Mrs. Pratt's interest would be considered more than de minimis but, on reflection, we think that the prudent course to take would be for Doug to be recused. Our view is, of course, no reflection on the ethics of either of the Pratts but is simply our suggestion to the Commission of the course of action which would be most likely to remove any appearance of bias.

Thank you for considering our views on this issue.

Yours truly,

ROBINSON, MCFADDEN & MOORE, P.C.

Frank R. Ellerbe, III

/bds

enclosures

cc/enc:

Julie Y. Patterson, Esquire (via e-mail & US Mail)
Benjamin P. Mustian, Esquire (via email & U.S. Mail)
Dan F. Arnett, Chief of Staff of ORS (via email & U.S. Mail)
John Bowen, Esquire (via email & U.S. Mail)
Margaret Fox, Esquire (via email & U.S. Mail)
Ms. Daphne Werts (via email)